

MINUTES  
NORTHEAST OHIO REGIONAL SEWER DISTRICT  
BOARD OF TRUSTEES MEETING  
DECEMBER 2, 2010

Meeting of the Board of Trustees of the Northeast Ohio Regional Sewer District was called to order at 12:30 p.m. by Darnell Brown.

I. Roll Call

PRESENT: D. Brown  
D. DePiero  
G. Starr  
J. Bacci  
S. Kelly  
W. O'Malley  
R. Sulik

The Secretary informed the President a quorum was in attendance.

II. Approval of Minutes

**MOTION** – Mayor DePiero moved and Mr. O'Malley seconded that the minutes of the November 18, 2010 Board meeting be approved. Without objection, the motion carried unanimously.

III. Public Session

Executive Director Ciaccia informed the Board that 15 members from the public registered to speak at Public Session. Mr. Brown requested that each member report to the podium in the order of which the names appeared on the sign-in sheet to address their comments to the Board.

Mallory Jackson stated that he is a field representative for Laborer's Union Local 860 Union, Heavy Highways and Utilities Construction Local Union. Mr. Jackson wanted to address the Board regarding the Combined Sewer Overflow Long-Term Control Plan (hereinafter "CSO LTCP") consent decree and the negotiations with the United States Environmental Protection Agency (hereinafter "U.S. EPA").

Mr. Jackson commented that "our lake is a great asset to our region and a continued effort to stop polluting this asset can only lead to greater development along the

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lakefront.” With the new casino, Flats development and Medical Mart, a clean lake will attract people to the City of Cleveland and add to the recreational activities for the visitors. Furthermore, the consent decree will act as a catalyst for job creation for this region.

Mr. Jackson stated that the District has worked hard to create a Small Business Enterprise (hereinafter “SBE”) program for both white and black contractors and this job creation will enhance the inclusion of minority businesses.

Mr. Jackson urged the Board to approve the agreement on CSOs and move forward with cleaning Lake Erie; one of our greatest assets.

Theresa Gang, Executive Director of the Cleveland Rowing Foundation (hereinafter “Foundation”), distributed photographs to the Board on her organization’s behalf. She indicated that the Foundation represents over 800 rowers who utilize the Cuyahoga River daily for recreational use over nine months of the year.

The Foundation was established in 1989 and includes Crew Programs for the following organizations: Shaker Heights High School, St. Ignatius High School, Cleveland Scholastic Rowing Association, Hawken School, John Carroll University, Case Western Reserve University, Baldwin Wallace College, Cleveland State University, Western Reserve Rowing Association and Notre Dame College.

Ms. Gang explained that in September 2010, the Foundation with the assistance of Trust Republic Land purchased 6.5 acres along the Cuyahoga River in the Flats in the amount of \$3 million to create a permanent home for rowing, kayaking and dragon boating. This purchase includes two acres that will be designated as a public park known as Rivergate Park.

Ms. Gang stated that the Foundation’s vision includes an urban rowing program to connect youth with the river that gave birth to this city.

Ms. Gang stated that the crews gracefully maneuver along the Cuyahoga River perfecting the fine art of rowing, and rowers no longer view Cleveland as east side or west side. They enjoy the amazing view of Cleveland from a shell that sits inches above the water.

Ms. Gang advised that she has spent thousands of hours practicing on the Cuyahoga River and hundreds in participating in regattas across the country. Ms. Gang attested that we should be ashamed of the impact CSOs have had by damaging the quality of our river water.

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Ms. Gang stated that when completing grant applications, she has been embarrassed to include photos of brown water instead of blue water.

Ms. Gang informed the Board that she has been a rower for over 15 years and that she moved to Cleveland over two years ago. At that time, she was quickly educated on how to row on the Cuyahoga River. The coxswain, the person who sits at the front of the boat and commands the crew, warned the rowers that they were passing by the "stinky pipe," which Ms. Gang described to be the Walworth Run CSO. This enormous pipe opens into the river and has a foul smell.

While hosting over 1,000 rowers and 2,000 spectators from seven states and over 35 organizations during the annual Head of the Cuyahoga Regatta, Ms. Gang stated that she was embarrassed that while speaking to a perspective donor and former Olympic rower, a condom floated by them.

According to Ms. Gang, rowers are "die-hards" and will not be kept from their sport. They awaken at 4:30 in the morning to practice before dawn and travel thousands of miles to compete in races for a chance for gold, but rowing on the Cuyahoga River the rowers know to keep their mouths closed to prevent from swallowing the water. The rowers have learned to anticipate debris and other materials after heavy rains and are daily witnesses to the contents floating in the river.

Ms. Gang stated that it is easy to understand that communities feel they are not directly affected and do not want to be responsible for the costs of this program; however, the Cuyahoga River created our community and connects us all. Our communities and our children deserve better. The work is not done to improve the quality of our river water. The Foundation strongly supports changing the current structure of allowing sewage to empty into our most precious natural resource. It is time that we take responsibility for the waste we create and a solution.

Ms. Gang advised that Michael Ciccarello was not present at the meeting to speak but that she would read a statement on his behalf. Mr. Brown advised Mr. Ciccarello must be present to participate in Public Session, and he advised that Ms. Gang leave Mr. Ciccarello's statement with Executive Director Ciaccia.

Bill Brown stated that he is the owner of a manufacturing company on East 55<sup>th</sup> Street which has 70 employees and uses cooling water. Mr. Brown stated that he is a Cuyahoga County resident and pays the sewer tax. He also sits on the Board for the Foundation.

When he began rowing in a single shell on the Cuyahoga River in 1980, friends would comment "you god's men get your shots." Or "how much lighter is your boat now since

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half of it dissolved in the water?" At that time, nobody believed that the Cuyahoga River was actually water.

Mr. Brown stated that we have come a long way since the 1980s and during that time rowers would encounter impenetrable amounts of debris and dead fish in the water. Their skulls would be coated in oil and they were difficult to clean. The rowers still experience those challenges occasionally today, but for the most part, the river is cleaner.

Mr. Brown stated that unfortunately before their last regatta this year, which attracted over a thousand people from out-of-town, this region experienced heavy rains and the water was "pretty bad."

Mr. Brown stated that we have made good progress, but we have more to go.

Mr. Brown indicated that his father, who made his living in the Great Lakes shipping trade, stated that "Senator Edward Muskie was going to ruin this country by killing all the industry with his Clean Water Act (hereinafter "CWA") that he was proposing and pushing through Congress."

Mr. Brown stated that in the last 40 years, we have made some progress and spent a lot of money but there is more to go. The good news is that we still have industry and his is one. Mr. Brown indicated that he recognizes that we will be paying higher rates, but we will need to practice conservation, learn how to save and use our water more carefully.

Mr. Brown urged the Board to move forward with the CSO consent decree.

Norman Edwards spoke on Resolution No. 352-10 for the Euclid Creek Storage Tunnel (hereinafter "ECT") project which was over \$198 million.

Mr. Edwards stated that according to the results of the District's disparity study, "black and minority contractors have not been getting their share." Mr. Edwards indicated that he has had discussions with Executive Director Ciaccia about certain things that have to be worked out.

Mr. Edwards stated that we have been coming to the Board meetings for quite some time advising that minority contractors have been excluded as contractors and construction workers. Mr. Edwards stated that "we were laughed at and it was a joke." But now with the corruption in Cuyahoga County that has surfaced, "we are not too stupid." Mr. Edwards stated that "all of the deals have been done behind closed doors" and black and minority contractors and tradesmen have been shut out because they would not allow us in the back rooms.

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Mr. Edwards stated that there are people from this institution that he and his guys have begged to work for, as taxpayers. Black and minority ratepayers will be affected and he requested that the Board "please mandate inclusion of blacks and minorities." We represent over 30% of the population in Cuyahoga County.

Mr. Edwards stated that they go to various entities including the Cuyahoga County Commissioners and Metro Hospital, and that they have been left out. Mr. Edwards assured that he was not crazy which has been proven given all of the indictments as well as the forthcoming indictments.

Mr. Edwards commented that attorneys and business people have sat on this Board and nothing has been done.

Mr. Edwards praised Executive Director Ciaccia because after he joined the District a disparity study was completed. Mr. Edwards advised that he has been begging for eight years that a disparity study be completed. It was finally done and we now have the proof that minorities have not been included and that the District has the authority to implement a MBE/FBE program.

Mr. Edwards urged the Board to "do the right thing" because "we deserve to have Christmases and other holidays and feed our families." The crime rate in the City of Cleveland and Cuyahoga County can be reduced and we must employ blacks and minorities.

George Martin stated that he has been a lifelong resident of Cleveland and Cuyahoga County. He raised eight children. His family utilized this region's natural facilities. Mr. Martin advised that he advocates on behalf of senior citizens and that he works for the Western Reserve Association on Aging, Tri-City Consortium of South Euclid, Commission on Aging and the present administration of the Citizens Advisory Board.

Mr. Martin advised that there are over 6,000 seniors living in their homes through the Passport Program, and if the proposed rate increases take effect, this will result in a financial hardship for many of those seniors.

Mr. Martin stated that he has a solution for the Board to consider. Being an organic gardener for over 65 years, Mr. Martin disconnected 85% of his gutters and implemented water gardens. The flat roofs on his property drain into rain barrels. Mr. Martin stated that this is a very important commodity for an organic gardener and that his plants respond better to rainwater than city water, which has chemicals such as chlorine and fluorine. Mr. Martin proposed that the District implement a rebate program for citizens partaking in stormwater management.

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Mr. Martin stated that at the South Euclid Town Hall meeting, it seemed as if the decisions were coming from above and that retainer wells in the amount of \$5 billion will be constructed. Mr. Martin suggested that we should encourage citizens to have disconnects and rain gardens. If rebates were distributed to the citizens implementing those practices, it would provide an incentive to customers to go green which would help our environment and local communities.

Mr. Martin stated that when he tried proposing those solutions during the town hall meeting, the person directed the meeting asked him, "Well what is your question?" According to Mr. Martin, this happened three times.

Mr. Martin stated that if the citizens of this region implemented these practices it would be more effective than the District's retainer wells that will only capture 80% of the CSOs.

Patricia Wright stated that she is a resident of the City of Parma. Ms. Wright referenced the public meeting held in Parma and she stated that there were many people voicing their fears. Ms. Wright indicated that she wanted to thank Mayor Starr and also Mr. Martin for his suggestions.

Ms. Wright commented that "this needs more time in order to gather some of these suggestions and to examine exactly what it is going to cost." Ms. Wright implored the Board "to give deep thought to that" and she stated that "it is going to be a terrible imposition on anyone who is retired." Once this program gets started, it will be hard to overturn. Ms. Wright asked for more time.

Ray Saikus advised that he is a member of an organization called "Citizens Vision" which has a committee called "Taxpayer Expenditure Accountability." Mr. Saikus stated that his group is "really astonished" by the Board's willingness to proceed with the consent decree and that they have relied on the legal opinion of someone who was convicted of "fleecing our tax dollars." Mr. Saikus requested to view the documents of the analysis of the consent decree and he commented that the Board has "no-business acting on this consent decree today...you are far from being ready for this."

According to Mr. Saikus, the U.S. EPA must conduct an environmental impact study with public participation before they can enforce any action or grant any permits. Mr. Saikus stated that the U.S. EPA must also conduct the Section 106 process mandated by the National Historic Preservation Act. Mr. Saikus claimed that his organization has notified the U.S. EPA, Board members and congressional representatives.

Mr. Saikus indicated that it would be irresponsible if the Board were to move forward today with the consent decree. Mr. Saikus stated that the Board members are "without

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knowledge of the full process that you are really supposed to be engaging and you are supposed to be allowing the citizens to participate.”

In 2006, during the Doan Brook restoration project, Mr. Saikus indicated that the District’s former general counsel advised the Board to ignore the citizens’ participation. He stated that “any advice of that type of a person that excludes the citizens cannot be relied on.”

Mr. Saikus stated that the Board “is being cowardly by going into the consent decree without having the citizens participate in it properly.”

Mr. Saikus alleged that his organization has successfully sued the United States Army Corps of Engineers for violating the National Historic Preservation Act and they were required to reimburse their legal costs. Also, Mr. Saikus claimed that they had the “dredging yanked from the Port Authority.” The Port Authority is trying to get it back and “they will have another portion of the law that applies that they will have to deal with.”

Bruce Edwards first thanked Mr. Saikus for his comments referencing the former general counsel, and he also thanked Mayor Starr and the other Board members who attended the meeting in Parma. Mr. Edwards stated to the Board members who did not attend the meeting in Parma, “Shame on you.”

Mr. Edwards stated that “this is fixing the problem using a sledgehammer...a jackhammer for what should be a simple Stanley hand hammer.” Mr. Edwards stated that during the meeting in Parma, he inquired about relining the sewers to prevent overflow and also adding numerous retention areas, which he alleged had been done in numerous communities out West. Mr. Edwards indicated that he was advised that “this has been done or considered, but it would cost 1.5 to 2 times the current project projections.” He stated, “You did not mention who did this research and what communities were covered.”

Mr. Edwards indicated that this type of relining has been done in numerous regions. In reference to the tunnel being constructed 200 feet below the surface level of the lake; Mr. Edwards questioned that “given physics and laws of gravity, placed there by our Maker, what financial plans have you made to cover a natural disaster that will inevitably happen?”

Mr. Edwards stated that boondoggle in Boston was billions of dollars over budget and is “the exact same type of project that you are proposing here...shame on you.” Mr. Edwards stated that “you have simple fixes that are available...relining is a simple fix.”

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Mr. Edwards indicated that he represented a company "that did this very type of thing" and that he knows this would cost \$200 million dollars, but this option has not even been considered... "\$200 million...not \$5 billion...not \$6 billion!"

Mr. Edwards mockingly commented that "that research company you got...you go to Cleveland State University...a bunch of educators...people who are not professionals in this field." Mr. Edwards claimed that he talked to professionals in this field and they indicated that they cannot anticipate these types of drillings and tunnels that will be so far below the surface as to what types of disasters will occur, but the relining and retentions are predictable.

Mr. Edwards concluded by stating that "given the corruption of our county...I wonder how many of you are involved."

David Beach, Director of GreenCityBlueLake Institute, the sustainability center at the Cleveland Museum of Natural History, stated that he is a Cleveland resident residing in the in the Doan Brook watershed and that he is also a District customer.

Mr. Beach stated that the consent decree is a big deal for the District and that he understood why "many of you would be struggling with this decision." It is proper to raise questions as to whether the CSO program is the most appropriate action to take on behalf of the residents of this region. It is also appropriate to raise issues about the social equity dimensions of this program and how it may affect lower income customers on fixed incomes.

Mr. Beach suggested that there are a couple of ways to reframe this issue. The politics of this situation have led us to adopt a negative viewpoint. We tend to view the CSO program as a problem which will lead to higher fees. People view the CSO program as an unfunded mandate taking place during bad economic times and that we are being forced to deal with CSOs or else the federal government will sue the District. Mr. Beach stated that "that frame is not very helpful or productive."

Mr. Beach stated that we need to realize that the choice is not between more or less spending. In most cases, at the household level or larger community level, we are going to spend the money on something. Whether it be cable TV, cell phone bills, transportation projects, new convention centers or casinos. The choice is really about our priorities as a society.

Mr. Beach questioned, "Are we willing to make clean water one of our top priorities? Water is one of the basic ingredients of life. Our bodies are composed of 70% water. We are made out of water. We are made out of Lake Erie. We drink it every day." Mr. Beach advised that he could not think of a higher priority for our society other than to



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clean our water. Mr. Beach suggested that we all need to stand up for clean water and especially those who are near the shores of Lake Erie who are the stewards of the Great Lakes. This should be a critical priority.

We should view the CSO program as an opportunity. This could be one of the best ways for us to reinvent our community. History has proven that investments in clean water bring positive environmental, social and economic benefits. We have seen that proven in Cleveland, Ohio.

Mr. Beach stated that at this critical moment in Cleveland's history, the District's CSO program could play a key part in the transformation of this City and large parts of the rest of Northeast Ohio.

This region has vacant land that needs to be redeveloped. We have a planning project, Re-imagining a Greater Cleveland, which is developing strategies to put vacant land into productive use. We have emerging institutional capacity of the Sewer District CSO program and a new stormwater program that will help design and build the green infrastructure needed to restore the ecological functioning of this vacant land. Mr. Beach stated that we have an emerging capacity with the County landbank to strategically assemble vacant land for productive use.

Mr. Beach stated that when you put these pieces together you can bring nature back into our City. We can rebuild the City based on ecological principles and create the new kind of 21<sup>st</sup> century green and sustainable city that Mr. Beach believed would make Cleveland rebound. Mr. Beach stated, "We can do this better than anywhere else in this country." This is an exciting opportunity and something we can do ourselves. We do not have to wait for the revival of the global economy. We can do this now to transform ourselves.

Mr. Beach stated that it is important not to blow this opportunity. The District must "step up with great engineering and ecological creativity to design the best possible solutions." These are world class solutions that can help us minimize gray infrastructure and underground pipes and help us to emphasize above ground green infrastructure solutions to help us rebuild our communities, which have multiple benefits for our communities.

Mr. Beach stressed that the District must openly and transparently manage these projects in a cost-effective manner while the rest of us act as tough watchdogs and monitor the 25-year program. We must insist that this will be the best possible program for our communities and we deserve it.

Mr. Beach concluded by suggesting that we view the CSO program as a top priority for our community and great opportunity to invest in ourselves.

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Steve Merkel advised that he was present on behalf of Citizens' Vision and Tax Expenditure Accountability Committee. Mr. Merkel thanked Mayor Starr for taking a stand on behalf of the citizens.

Mr. Merkel stated that he has been dealing with organizations similar to the District having non-elected Board of Trustee members or director, which is frustrating because you are not directly accountable to the citizens as an elected official.

Mr. Merkel stated, "We are also dealing with the EPA who is acting like a bunch of jackbooted thugs and coming in demanding and holding a gun to your heads saying you must do this," which is very frustrating.

Mr. Merkel advised that he was unsure as to what the answer is, but he believed that "part of it is cleaning house in Washington." Mr. Merkel stated, "If you only have a hammer, every problem you have looks like a nail" and it seems that "right now you're looking at the problem and the only hammer you have are these massive underground tunnels." Mr. Merkel stated that you have not thought about other solutions and Mr. Beach made some very positive suggestions and those alternatives should be considered.

Mr. Merkel advised that the District should go back to the EPA since they gave Florida an additional one and half years. Therefore the EPA should give us at least one year.

Terry Schwarz advised that she is the Director of Cleveland Urban Design Collaborative which is part of Kent State University. Ms. Schwarz indicated that for the last few years she has been working with a consortium that includes city and county agencies and non-profit organizations particularly on a range of issues related to older industrial cities with population decline and large scale urban vacancies.

Ms. Schwarz referred to the initiative mentioned by Mr. Beach called Re-imagining a Greater Cleveland and she indicated that she wanted to reiterate some of the points raised by Mr. Beach.

According to Ms. Schwarz, Cleveland is increasingly being recognized on a national scale as a model for how older industrial cities can reclaim neighborhoods through the strategic reuse of vacant land and "stormwater management is a huge part of that equation."

Ms. Schwarz commented that the District's tools through the green infrastructure capacity will enable this region to show leadership and develop models that can be replicated in older cities around the Great Lakes. Ms. Schwarz stated that there are unprecedented opportunities for reclaiming neighborhoods where vacancy and hydrology intersect.

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On behalf of her organization, Ms. Schwarz stated that "we really encourage you to move forward with this and the sooner the better." The problems will not simply go away nor become less expensive.

Ms. Schwarz concluded by stating that she is a ratepayer who has lived in Cleveland Heights for over 20 years. She does not like when her monthly bills increase either but the health of the river and lake are important to us and "this is a check that I will write happily." She was hopeful that the Board will move forward with the CSO program.

Edwin and Margaret Figueroa reported to the podium together to address the Board. Mr. Figueroa advised the Board that they are Parma residents who attended the public meeting in Parma. Mr. Figueroa thanked Mayor Starr for supporting the people.

Mr. Figueroa advised that his street is being dug up and that they are repairing and relining in the street. Mr. Figueroa stated that he found out that there is "one contractor and another subcontractor and that contractor has another subcontractor." Mr. Figueroa wanted to know how this project was going to escalate the cost.

Mr. Figueroa stated that he believes in a clean lake, wants a clean lake, and that he is an environmentalist.

Mr. Figueroa advised that he is senior citizen living on a fixed income and Parma is full of citizens living on fixed incomes. Mr. Figueroa advised the Board that he is Hispanic and he stated that the poor people within this community whether they be black or Hispanic are going to be affected. Many of us cannot afford this type of increase.

Mr. Figueroa indicated that "we question where this money has been expended" and we are concerned that the monies will be spent wisely. Mr. Figueroa was unsure how many senior citizens, Latino or black communities will be able to afford the rate increases. Mr. Figueroa stated, "We are not rich and it seems like the rowing association has a lot of money to spend on their rowing boats and buying their rowing facilities." They have the money; we do not.

Mr. Figueroa stated, "We would like you to give us a lot of consideration." He understood that we need these projects and clean water, which is the most valuable commodity on this planet. But social inequities are very important and we must find a happy medium. Some of the monies being spent overseas to build hospitals, roads and schools should be spent here to repair our infrastructure. It is not very wise to take our money elsewhere. Mr. Figueroa concluded by stating that "charity begins here and belongs here in America."

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Joe Miller stated that he "represents a small group of about one million citizens in Northeast Ohio" and is a Cleveland Heights resident. Mr. Miller thanked Mayor Starr for attending the Parma meeting and he commented that the Board members who failed to attend said meeting should be ashamed of themselves and that "it is despicable."

According to Mr. Miller, there were 250 angry people at this meeting and the Board should have seen the real feelings being emanated by the public "not just some stage people coming up and talking about...rowing on a river or, gosh, I love when my sewer bill comes so I can pay it." Mr. Miller suggested that the Board "talk to the real citizens" in which there are a "million of them and they are angry as hell."

Mr. Miller advised that Executive Director Ciaccia and some of his representatives attended the Parma meeting. He suggested that the District "get out to the public and see what they are talking about."

Mr. Miller stated that a \$3 billion to \$5 billion tax increase is absolutely unacceptable for the citizens. We cannot afford this increase. There are no jobs. The income is low. We cannot do this.

Mr. Miller referenced the County corruption and he stated that "the Sewer District doesn't have a very high appeal among people."

Mr. Miller advised that they are requesting a 12-month moratorium and he stated that we are not suggesting to get rid of the project. We are requesting that the activist groups and citizens be provided with an opportunity to look at it. Mr. Miller questioned that "if it's all on the up and up...then what's the problem?"

Mr. Miller referred to the comments made about rain barrels and he stated that "nothing is being discussed except this huge number of \$3 or \$5 billion" and it is imperative that that we see the breakdown. According to Mr. Miller, "the people of Cuyahoga County don't really sit back as much as they used to and there are a lot of groups boiling over this."

According to Mr. Miller, Mike DeWine and Governor-elect John Kasich are already involved and Mayor Ed Kelly of Cleveland Heights filed a lawsuit against the District. We have many questions and the citizens are demanding more time to sort through this.

Executive Director Ciaccia advised that this concluded the speakers that registered to speak at Executive Session.

Mayor Starr inquired if there were any members in the audience wishing to speak on this very important issue but did not have a chance to sign-in.

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An unidentified speaker from the audience stated, "We got one back here."

Mr. Brown reminded Mayor Starr of the Board's protocol is that individuals interested in addressing the Board during public session on a particular agenda issue must sign-in. Without usurping the authority of the chair, Mr. Brown indicated that the Board will follow its protocol and move the agenda forward since all members from the public who registered to address the Board during Public Session have spoken.

**MOTION** – Mayor Starr moved to overrule the chair and allow the public to speak and exercise their first amendment right. No Board member seconded the motion.

Mayor Starr commented, "In Middleburg Heights, we don't do this...you just come to the meeting and speak."

Mr. Brown advised Mayor Starr that he was out of order.

From the audience, Mr. Saikus stated that Mr. Brown was out of order because the sign-up sheet was not there and that it was delivered late. No one announced that it was there.

An unidentified male from the audience stated, "Because the sign-up sheet was not there, several of us were not aware of this sign-up protocol." Since this is a very important meeting, he inquired if Mr. Brown would at least entertain a few questions from the audience.

Mr. Brown requested clarification from Executive Director Ciaccia as to where the sign-up sheet was located. Executive Director Ciaccia replied that it was in the same location as always and was picked up at the same time it is always picked up.

Mr. Brown requested that the individuals interested in addressing the Board please raise their hands. There were three members from the audience who wished to speak. Mr. Brown requested that those individuals come forward and address their comments to the Board. Those individuals were advised to state their name for the record and limit their comments to three minutes.

Stanley Miller, Executive Director of the NAACP, thanked the District for their help with some programs and he advised that "the staff has been very helpful in making that a powerful opportunity for some young men."

Mr. Miller advised that he wanted to address the Board regarding Resolution No. 353-10. The greater Cleveland community is changing and when the rules were first implemented, we were expecting to have more people than we have today within this

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community. There are fewer people in Cuyahoga County that will be eligible to pay for this. People are either too young or too old to support this.

Mr. Miller stated that the City of Cleveland already implemented a rate increase for water, an \$8 fee for trash collection and will have a school levy next year for about \$61 million. Mr. Miller stated that in addition to that, the District is proposing a 300% rate increase and he reiterated that the "people are too young or too old to support it."

Mr. Miller agreed with the former public speakers in that we need more time and an opportunity to truly understand the long-term impacts that this will have on our community.

Mr. Miller stated that Cleveland's population is expected to drop below 400,000 people and he questioned, "Who is going to pay for this? Are we going see a slippery slope where people are going to again lose their homes because they just cannot pay the taxes?"

Mr. Miller concluded by urging the Board to take time and give us a year to examine this issue to see if we can propose a better strategy or get some relief from other sources.

Thomas Kelly stated that he is affiliated with the Citizens' Reform Association and he thanked Mr. Brown for allowing more public speakers to address the Board.

Mr. Kelly stated that the he was sure the Board is aware that many people consider this a monstrous tax that will place a tremendous burden on this community. Mr. Kelly requested a minimum 90-day extension for the citizens' involvement and the possibility of better ideas.

Mr. Kelly referenced Mr. Saikus's comments regarding the National Historic preservation Act and EPA mandate. He suggested that the Board review that section of the NHPA before entering into the consent decreed and that they are "on notice." If the Board proceeds forward and agrees to the consent decree knowing that they are in violation of the federal law, he questioned, "Wouldn't you be liable for damages for breach of fiduciary duty, both professionally, as members of the Board, and personally?"

Mr. Kelly commented that if the Board proceeds with the 90-day delay, which must be granted by the EPA, he could not understand why the Board would agree to the EPA's demands by signing the consent decree that could put you at risk personally of accusations and subsequent damages for breach of fiduciary duty.

Mr. Kelly concluded by stating, "You can't enter into an agreement knowing that you are violating federal law."

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Bob Greenbaum stated that he is South Euclid resident and he thanked the Board for allowing him an opportunity to speak. Mr. Greenbaum advised that he represents the Sierra Club which has had long-time interest in the environmental aspects of this program.

Mr. Greenbaum wanted to address the angry comments made about the costs of this program and he wanted to share some preliminary viewpoints. The costs appear to be marginally above the normal rate of inflation and typical inflation will double costs over seven or eight years. This is not a catastrophic amount of money. Mr. Greenbaum stated that "this is the start of us coming into compliance."

Mr. Greenbaum indicated that over the past 30 years, he has been angry at cities throughout this country that are in violation of the CWA or are just simply ignoring it.

Lawsuits can be filed by citizens alleging that adequate amount of time has not been given to this issue. Mr. Greenbaum questioned, "When is there enough time? When is the time to move forward on this?"

According to Mr. Greenbaum, there was acid rain legislation at the federal level and 20,000 studies were conducted showing the effects acid rain has on our health. The costs of compliance to improve this paid back at a 30 to one rate and "all we heard when the opposition was coming is what the cost was." Mr. Greenbaum stated that "there is a cost and there is a benefit."

According to Mr. Greenbaum, two-thirds of all adults are fisherman, and you will see anger if the fishermen are advised that their favorite fishing hole is contaminated and the fish cannot or should not be eaten.

This is a major problem that has been brewing for a long time. This Board did not cause the problem, but they are responsible to solve it.

Mr. Greenbaum stated that the cities of Columbus and Cincinnati have attempted consent decrees and environmental groups had to intervene legally multiple times. "We are hoping that we will see the start of a process here, where we are going to move to resolve the problem in Cleveland for all of our citizens...without the burden of more lawsuits from either side."

Mr. Greenbaum suggested that "the angry people on the cost side should get together with us angry people on the environmental side and we can perhaps save you all a lot of aggravation."

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Mr. Greenbaum commented that he was appalled by the number of security officers in the Public Meeting room. This Board should not be afraid of the citizens. We only want a fair and equitable solution to the problem. We are concerned about the health of the citizens and less concerned about the bond counsel and contractors. We can monitor this later.

Mr. Greenbaum concluded by thanking the Board for their time and hard work on this issue.

### IV. Executive Director's Report

Executive Director Ciaccia thanked the public speakers and he advised that there were two additional security officers assigned today which were brought in to handle the overflow room and parking. Executive Director Ciaccia assured the citizens that were in attendance that no staff members were afraid of the citizens.

Executive Director Ciaccia moved to the first report item regarding the stormwater management litigation. Judge Pokorny ruled on motions filed by the opposition. They argued that the municipal interests are being represented and not the members of the communities. Judge Pokorny ruled against the motion on the basis that the citizens are in fact represented by their communities involved in the lawsuit and that every customer does not need to be individually named.

There have been some internal meetings and discussions with the judge with respect to the KMM&K MCT-3 lawsuit. There is a desire to consider whether we want to move forward with a mediation process. At the December 16<sup>th</sup> Board meeting, Executive Director Ciaccia anticipates recommending that the Board convene in Executive Session to discuss the issues and strategies of this litigation.

Executive Director Ciaccia moved to the next report item and he advised that summer sprinkling program billing issues are going well and that Director of Information Technology, Humberto Sanchez, has been on point regarding this matter.

Executive Director Ciaccia moved to the next report item regarding the District's finances. Cash remittances are down 3.96% at the end of November, which is an improvement from October which was down 7.3%. City of Cleveland Division of Water (hereinafter "CWD") has fixed many of the billing problems and the money is starting to come in to the District. Accounts receivable is down for the third month in a row, but Executive Director Ciaccia was happy to report that we are starting to move forward in a positive new direction.



V. Action Items

Authorization to Pay Dues

Resolution No. 338-10

2011 dues for Northeast Ohio Areawide Coordinating Agency. Cost: \$54,834.00.

**MOTION** – Mr. Sulik moved and Ms. Kelly seconded to adopt Resolution No. 338-10. Without objection, the motion carried unanimously.

Authorization of Contract Modification

Resolution No. 339-10

Modify Contract No. 09001691 with Mark Haynes Construction for the West Creek Watershed Restoration Projects. Cost: A time extension of 151 days with no change in the contract price.

Resolution No. 340-10

Modify Contract No. 10000629 with Marous Brothers Construction for the Combined Sewer Overflow Rehabilitation Contract – Early Action Project (CSORC-EAP). Cost: A time extension of 149 days with no change in the contract price.

Resolution No. 341-10

Final adjustment deduct order for Contract No. 09000776 with Kokosing Construction Company, Inc. for the Cuyahoga Valley Interceptor Lift Station Improvements (CVI LS-3) Project. Cost: A time extension of 30 days and a decrease in the amount of \$110,775.98 bringing the total contract price to \$6,051,790.02.

Resolution No. 342-10

Final adjustment deduct order for Contract No. 3523 with Nerone & Sons, Inc. for the Easterly Final Clarifier Rehabilitation (FCR-5) Project. Cost: A time extension of 30 days and a decrease in the amount of \$475,466.80 bringing the total contract price to \$2,685,495.70.

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Resolution No. 343-10

Final adjustment deduct order for Contract No. 09001782 with Bay Mechanical & Electrical Corporation for the Easterly Substation Replacement (ESR-1) Project. Cost: A decrease in the amount of \$18,547.09 bringing the total contract price to \$1,611,362.91.

Resolution No. 344-10

Final adjustment deduct order for Contract No. 3436 with Marra Constructors, Inc. for the Westerly Interceptor Box Culvert Replacement (WIBCR) Project. Cost: A decrease in the amount of \$746,186.25 bringing the total contract price to \$4,370,991.25.

**MOTION** – Mr. Sulik moved and Mr. O'Malley seconded to adopt Resolution Nos. 339-10 through 344-10. Without objection, the motion carried unanimously.

Mr. Sulik noted the decrease in contract amounts was over \$1 million.

Authorization to Amend Agreement

Resolution No. 345-10

Amend the Partnership Agreement at the West Creek Reservation's Stewardship Center by modifying the remittance schedule of the \$3,000,000.00 capital investment provided by the District.

**MOTION** – Mayor DePiero moved and Mayor Bacci seconded to adopt Resolution No. 345-10. After discussion, the motion carried unanimously.

Mayor Starr stated that this is a \$3 million building that will cost the District \$250,000 annually, which over 25 years is \$6,250,000. In light of the recession and cutting costs, Mayor Starr inquired if Resolution No. 345-10 can be postponed or tabled. Mayor Starr inquired as to the urgency of moving forward with this building in the Metroparks.

Executive Director Ciaccia replied that an agreement was reached between the District and the Metroparks in 2007. They have moved forward with the design and are now ready to begin constructing the facility. Executive Director Ciaccia met with the Brian Zimmerman, the new executive director who replaced Vern Hartenburg, and he indicated that they are ready for the District to move forward with its commitment that was reached

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back in 2007. Executive Director Ciaccia turned discussion over to the Director of Finance, Jennifer Demmerle.

Ms. Demmerle affirmed that the District agreed to invest \$3 million in the project in 2007 and therefore the commitment has already been recorded into the District's financial records. The \$250,000 annual amount is for the operating support agreement and those details have not yet been finalized with the Metroparks. This amount is mainly paid through in-kind support that District staff will provide at the stewardship center and training opportunities. This is not necessarily cash out the door.

Mayor Starr questioned that if this does not deal with CSOs or flooding, then what is it for?

Executive Director Ciaccia replied that it is for the Metroparks to establish a Community Education Center in West Creek. The District made this commitment given the fact that the center will focus on water in nature.

Mr. Brown requested Director of Watershed Programs, Frank Greenland, to elaborate on this issue and explain how this will tie into the District's watershed partnership activities.

Mr. Greenland explained that this partnership between the District and the Metroparks was established in an effort to get the District involved in watershed education activities along the metro parks. The Watershed Stewardship Center will address watershed-related issues such as water quality and quantity and provide many educational opportunities. The District will monitor water quality and quality test stormwater, develop best management practices and share those results with the local engineering community. Mr. Greenland stated that this partnership is a great opportunity for the District.

### Authorization to Enter Into Agreements

Resolution No. 346-10

Two agreements with the Ohio Wetlands Foundation to Purchase Wetland Mitigation Credits. Cost: \$33,600.00.

Resolution No. 347-10

Agreements for obtaining land rights for wetland mitigation requirements for the Nine Mile Creek property. Estimated Cost: \$700,000.00.

**MOTION** – Mr. O'Malley moved and Mr. Sulik seconded to adopt Resolution Nos. 346-10 through 347-10. After discussion, the motion carried unanimously.

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Mr. Brown inquired if Resolution Nos. 346-10 and 347-10 were related to the impacts that the planned projects will have on existing wetlands and the District's obligation to make whole for the impacts. Executive Director Ciaccia affirmed.

Authorization to Enter Into Contract

Resolution No. 348-10	Contract with EnviroScience, Inc. for wetland mitigation consulting services. Contract fee not to exceed \$25,637.00.
Resolution No. 349-10	Contract with Kenmore Construction Company for the Mill Creek Interceptor Rehabilitation Phase II Improvements. Contract amount: \$4,230,765.00.
Resolution No. 350-10	Contract with Middough, Inc. for professional design services for the Southerly Low Voltage Equipment Replacement (SLVR-1) Project. Contract fee: \$3,843,600.00.
Resolution No. 351-10	Three (3) year contract with Westin Engineering, Inc. to conduct an organizational structure assessment and provide administrative management services for automation related activities in the District. Cost not to exceed \$1,293,618.00.
Resolution No. 352-10	Contract for Construction Services with McNally/Kiewit ECT JV for the Euclid Creek Storage Tunnel (ECT) Project. Contract amount: \$198,643,000.00.

**MOTION** – Mr. Sulik moved and Ms. Kelly seconded to adopt Resolution Nos. 348-10 through 352-10. A roll call was taken on Resolution No. 350-10 and the motion carried with one abstention by Mayor DePiero. After discussion, a roll call was taken on Resolution No. 351-10 and the motion carried with one “No” vote by Mayor Starr. Without objection, the motion to adopt Resolution Nos. 348-10, 349-10 and 352-10 carried unanimously.

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Mayor DePiero requested that a roll call be taken on Resolution No. 350-10 and the motion carried with one abstention from Mayor DePiero.

Mayor Starr referred to Resolution No. 351-10 to enter into contract with Westin Engineering, Inc., a California firm, for \$1.3 million and he requested an explanation.

Executive Director Ciaccia replied that it will be a major endeavor to get automation at our plants and this will be the first step in the process. The District issued Requests for Proposals (hereinafter "RFPs") and are making recommendation to enter into contract with Westin Engineering, Inc. Executive Director Ciaccia turned discussion over to Mr. Sanchez.

Mr. Sanchez explained that there is a three-step approach to this strategy. The first focuses on the need to administrate our automation activities in the District followed by a more comprehensive design of control system for improving plant information. The process was incorporated into the RFP. Three firms responded to the RFP; Westin Engineering, Inc., EMA and PCI. The District conducted its evaluation and Westin ranked the highest.

Mayor Starr inquired whether there were any Northeast Ohio or Ohio firms that could conduct this type of work.

Executive Director Ciaccia replied that no Ohio firms responded to the RFP. Mr. Sanchez reported that the RFP was posted on the District's website which is the standard process for bidders and RFPs.

Mayor Starr requested that a roll call be taken on Resolution No. 351-10. The motion carried with one "No" vote by Mayor Starr.

Mr. Brown referred to Resolution No. 352-10 for the ECT project, and he stated that this is one of the early action CSO projects that was authorized in 2005 shortly after negotiations began.

Executive Director Ciaccia affirmed and stated that the ECT project was submitted in 2005. We began negotiations with the federal government and the state government decided to move forward with projects in the CSO plan. They entered into contract with Hatch Mott MacDonald for the major design of the ECT. After the design was completed, staff made recommendation to this Board to go out for bids.

Mayor Starr commented that this is a \$200 million CSO tunnel project that will be over 200 feet below ground and he questioned, "What percent will the Euclid Creek Tunnel be as part of that 13% rate increase or the 9%?" Mayor Starr referred to the minutes from

the November 18<sup>th</sup> Board meeting and he stated that “the answer from Julius Ciaccia was ‘three or four percent’” which was on page 13, paragraph four. Mayor Starr requested clarification.

Executive Director Ciaccia stated that the projected rate increase is around 13%.

Mr. Brown inquired if Mayor Starr was questioning whether the statement made by Executive Director Ciaccia during the November 18<sup>th</sup> meeting was accurate.

Mayor Starr stated that there are seven tunnels proposed as part of the CSO program for 25-years. If only one of those projects is worth 4%, how are we going to pay for the other six tunnels?

Executive Director Ciaccia referred to the November 18<sup>th</sup> Board minutes, and he stated as indicated in the minutes that between three and four percent will be for CSO-related projects and the Renewable Energy Facility (hereinafter “REF”). Executive Director Ciaccia emphasized that the CSO projects was plural, which includes the ECT, Tunnel Dewatering Pump Station (hereinafter “TDPS”), design of the Dugway Storage Tunnel (hereinafter “DST”) and the REF.

Mayor Starr questioned, “What percent will the Euclid Creek Tunnel be of the rate increases?” Deputy Executive Director, F. Michael Bucci, replied that the total construction program over the next five years is going to be \$1.3 billion and the ECT project is \$200 million, which makes the ECT project 1.1%.

Mayor Starr questioned, “What you said was three, four percent, it’s really 1.1%?”

Executive Director Ciaccia referred back to the November 18<sup>th</sup> minutes which indicated that the percentage he gave included CSO-related projects, plural, and the REF. According to the November 18<sup>th</sup> minutes, Mayor Starr was questioning as to “what percent of the rate increase will go toward the Euclid Creek Tunnel project,” and Executive Director Ciaccia’s response to Mayor Starr’s was on the record.

Mr. Brown stated that the record reflects the content of the question and the response and that there seems to be no need for correction or amendment to the minutes.

From the audience, Mr. Saikus declared that this was a point of order for legal purposes. Mr. Brown advised Mr. Saikus that he cannot make comments at this point during the meeting. Mr. Saikus stated that he has given notice of potential legal action on this particular project if the EPA...Mr. Brown requested that Mr. Saikus refrain from making any more outbursts during the meeting.

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Mayor Starr commented that if the ECT project is 1.1% of the rate increases, then he "views this as affordability." Inflation is two or three percent, but the District's rate increases over the last five years have been astronomical. We have not been able to control spending and in the future, we need focus more on controlling our spending.

Mayor Starr explained that he finds a 1.1% increase to be reasonable and if sewer rates were increasing 1, 2 or 3 percent, then that would be reasonable and affordable. Mayor Starr stated that he is "supporting this program here at 1.1%."

Authorization to Amend Resolution

Resolution No. 353-10

Authorization to amend Resolution No. 55-05 and execute a Combined Sewer Overflow Long Term Control Plan Consent Decree.

**MOTION** – Mr. O'Malley moved and Mr. Sulik seconded to adopt Resolution Nos. 353-10. After discussion, a roll call was taken and the motion carried with two "No" votes by Mayor DePiero and Mayor Starr.

**MOTION** – Mayor Starr moved to postpone Resolution No. 353-10 for a one-year period for three reasons: 1) to allow the public and the taxpayers time to evaluate, scrutinize and voice their opinions; 2) to assess the potential, financial hardships that this new tax will have on existing and new businesses in Northeast Ohio, including American Greetings (Mayor Starr acknowledged that Mayor Richard Balbier of Brooklyn was at the meeting); and 3) to assess the new political climate realities and changes, both in Washington D.C. and the State of Ohio that might ease the financial burden on the taxpayers within the Northeast Ohio Regional Sewer District. No Board members seconded the motion.

Mr. Brown commented that much time and effort was put into the CSO program and this is not a new issue that the District is facing. This rule was promulgated in 1994 and we have been in violation for a number of years. We entered into discussions with the state and federal governments in 2004 and they were threatening enforcement action against the District. We have been in earnest negotiations with the governments since 2005.

Mr. Brown remembered that at that time the Board instructed staff to pursue favorable terms and conditions for a potential settlement, which included achieving a compliance term in excess of 20 years. The Board also raised affordability issues. The staff earnestly negotiated the consent decree for over five years.

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Mr. Brown reminded the Board that the federal governments' initial proposal included a \$3.7 billion plan over a 12 to 15 year time period. Through negotiations, they agreed to a \$3 billion CSO program over a 25-year period and this region was deemed to be a high burdened community, which is important.

Mr. Brown stated that the underlying issue that this District is in violation and we need to either settle with the governments or face being sued. There are risks associated with the latter. Mr. Brown referred to the outcome of the City of Akron. They chose to be sued and as a result they are now required to capture CSOs in excess of what was originally proposed and must comply within 19 years.

Mr. Brown referred to the one-year moratorium that was allegedly granted in Florida. He explained that Florida has 15 months to implement their program and that this is not a moratorium. A new rule was promulgated in Florida for nutrients. This is similar to the rule that was promulgated for CSOs, which took a year to develop the strategies, enforcement and implementation. Comparing the District to Florida is like comparing apples to oranges.

Mr. Brown stated that the question is whether staff conducted their due diligence and addressed the issues and concerns of this Board to reach 98% capture, which is what the governments are mandating, through the use of technology, tunnels, and green for gray infrastructure. Did staff rise to the level of giving this District the best outcome and projects to bring us into compliance?

The rates are a separate issue and have yet to be established. This will occur after the rate study is complete. Affordability must be considered in the rate structure in order to assist those who cannot afford the impacts of this increase. However, the issue this Board is voting on today is whether we agree to the terms and conditions of the consent decree between the District and the governments.

Mayor Starr read aloud from a statement:

Today is Thursday, December 2, 2010; it is the day that will long be remembered in Greater Cleveland. It is the day LeBron James returns to Cleveland after spurning the Cavs and the devoted fans, who cheered him on for seven years, to go to Miami.

It is also the day that the trustees of the Northeast Ohio Regional Sewer District are scheduled to approve an agreement with the federal government that will require the largest utility tax increase in the history of Northern Ohio.



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There is a similarity in what Lebron James did to the Cavaliers and what the Sewer District is preparing to do its one million customers. Lebron James stuck his finger in the eye of the Cavaliers and the fans, and the Sewer District is doing the same thing to its customers.

And make no mistake about it; this is an unvoted tax hike that will be a job-killer for Greater Cleveland. We could not have picked a worse time to do it. The Sewer District says today that the vote is not to raise rates. But just signing the agreement commenced a multi-billion dollar construction plan that will require double-digit rate increases, initially, to pay for it.

Who will buy a house for one year and then learn what the costs and monthly payments will be in another year? The District initially said that it would be 18% for five years. Now they say it's a bargain at 13% compounded. The numbers keep changing.

If you take the high end, the average homeowner will be paying around \$1,000 a year. They are playing a shell game with the customers and arriving at projected rate hikes even before the rate study has been complete.

I will be voting against signing this consent agreement today. I have been a Board member for 17 years, having been elected by 39 communities. I am proudly representing my fellow mayors. And I cannot, in good conscience, approve something and know that the residential and business communities will suffer a financial hardship when they are already struggling.

Why can't we wait a year to see if we could get a delay like the State of Florida received, because their basis was an economic recession? Could we see if the federal policy and the dynamics change in Washington next year, such as maybe a reinstatement of loans that they had in the 1980s that helped make these rates affordable; zero percent loans, a combination? How about an extension of terms; 30 years, 35?

People have spoken. They do not want new taxes.

Also adding to this confusion over the last several months, the U.S. EPA believes we can afford 2% of our income for sewers. They

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believe our incomes will rise 4%, their assumptions say. Now I say, what planet are they on?

Our unemployment is approaching 10%. To make matters worse, unemployment benefits expired in the United State Congress last night. We will be forcing people to choose between paying sewer bills or feeding and clothing their children. Do we really think that they will choose paying us over taking care of their family?

Another reason I am against this agreement is the secretive process involved in reaching it. The Board members were just recently provided these details. They were kept -- and they kept them a secret. I objected. Finally they caved into public pressure and made them available.

The public's input was limited to just two meetings after the consent agreement was released and put on our website on November 12<sup>th</sup> instead of the 200 meetings for our proposed and much smaller stormwater management fee. I spoke at that meeting in Parma. I believe I was the only trustee to move to the center of the room and face the voters. And they were outraged at the District. Again, I am not questioning the loft goal in furthering cleaning up our rivers and Lake Erie.

Since the Sewer District was formed back in 1972, we have reduced dumping of raw sewage in half. Yes, water pollution level is still unacceptable. But is the price too high for a regional reeling from poverty, unemployment, foreclosures and an exodus of residents and businesses? But despite this public outcry, the Board and administration remain committed to rushing this tax through.

Is this tax being driven by the City of Cleveland because the suburbs will wind up paying for repairing Cleveland sewers? Is that what we call regionalism?

Four years ago the Cleveland *Plain Dealer* said in an editorial, November 12, 2006, and I quote, "the last thing cash-strapped homeowners and business owners want to hear is that the Northeast Ohio Regional Sewer District is requesting a 9% rate increase for the next five years. Sewer Board member Gary Starr, Mayor of Middleburg Heights, has raised some good questions about the increase. He wants to make sure that the District does

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plenty of belt-tightening on operations and projects before he supports the increase. Starr's questions are appreciated."

By the way, I voted "no" four years ago. But four years ago, *The Plain Dealer*, said I was asking good questions, didn't they, that need to be asked—

Mr. Brown requested that Mayor Starr please conclude his comments. Mayor Starr indicated that he was not finished.

Mayor Starr continued reading aloud from his statement:

Now Executive Director Ciaccia and *The Plain Dealer* say that I'm politically grandstanding. What has changed at *The Plain Dealer*?

The Sewer District was created by Judge George McMonagle in 1972 after the suburbs sued the City of Cleveland saying they were gouging the suburbanites. How ironic that the agency created to stop gouging is now poised to do the same? We have a pro-Cleveland bias. Our executive director ran the Cleveland Water Department before he joined us. It is clear where his sympathies lie.

Our neighbors in Summit County, who are served by the Sewer District, are now discussing working with other communities in their county on a county-wide approach that could result in them leaving the District. And they passed a resolution asking for a one-year moratorium this week. And I would expect that some other communities in Cuyahoga County now served by the District will reassess their position because of this tax hike. Twelve communities are now challenging our attempt to mandate a stormwater fee under the terms of Judge George McMonagle's original order.

And finally, the county corruption scandal, which has tarnished this Sewer District and the federal mid-term elections, should drive home the lessons that the public demands greater transparency and accountability.

The \$455 million Medical Mart took five years of public debate and dozens of public meetings. \$3 billion and two public hearings

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since the 47-page consent decree was released on November 12, 2010. That was 20 days ago to the date; \$3 billion tax increase.

I applaud the members of the public who have taken time to come here today, and to Parma. I asked that this District schedule this meeting at 7:00 p.m. so more members could attend, including the working public, but that was denied. Why is it that the new county council can schedule meetings at 6:00 p.m. for the public's convenience, but we can't?

I love this area and its people. I want them to succeed. I want the Sewer District to succeed. But picking their pockets in hard times is not the way to do it.

Mr. O'Malley commented that he was amazed by some of the changes he witnessed of certain members of this Board over the past few months. He has been on the Board for the past year-and-a-half. During his tenure, the administration and staff have been very open and transparent with its construction contracting process, the SMP and the CSO LTCP.

Mr. O'Malley stated that he chaired a lot of meetings in his days, but the administration at the District is the most open public forum that he has ever been involved with and "to be told that the Board is a rubber stamp and everything has been done behind closed doors couldn't be further from the truth."

Mr. O'Malley stated that over the last couple of months things really changed when with the development of the tentative agreement with the governments and a lot of misinformation was given. Mr. O'Malley stated that according to Mayor Starr the District rates are going to increase 250% over a five year period and this information is "totally false." Our rates will increase 65%, which is not very plausible to vote on, but we as Board members have to make an unpopular decision today.

This misinformation scared the elderly and people in this town who cannot afford to pay their bills. Mr. O'Malley advised that 95% of the calls he received were from scared elderly residents that feared not be able to pay their rent because their sewer bills are going up 250% over a five year period. Mr. O'Malley assured that this information was never told to the Board; however, this information was printed on correspondence from the City of Middleburg Heights letterhead. Mr. O'Malley stated, "That's what they do in Middleburg Heights, but we don't do that here."

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Mr. O'Malley stated that it is misleading to call this a tax. Mr. O'Malley pointed out that this Board recently voted unanimously to implement SMP and stormwater fee, but this was not labeled "a tax."

Mr. O'Malley stated that he does not know whether this is considered political grandstanding, but up until two months ago, he never heard any serious questions or comments made against this process. This process has been ongoing long before he and other Board members joined this Board.

In 2005, the administration was advised to move forward with the consent decree negotiations and Mayor Starr was president of the Board at that time. For five years this District has been involved with negotiations and two months before we are ready to vote on the consent decree it has become a big issue. Mr. O'Malley stated that he does not relish to vote on a 65% increase but as a Board member, he as duty to do that.

Mr. O'Malley explained that it has been proven that entities do not prevail when they fight with the governments in a situation such as this. Right now we are looking at a \$3 billion CSO LTCP, not a \$3 billion to \$5 billion program. If we fight the government, we will pay millions more in attorneys fees and we will not come out with the same agreement as proposed today. It is likely that the deal will be worse and "that is not being responsible to our ratepayers."

Mr. O'Malley stated, "Let's keep the rates as low as I feel we possibly can and I certainly am going to support this for that reason." Mr. O'Malley believed that by grandstanding and to go any further than this decision today is not doing what is right for the ratepayers.

The District spent over \$40 million to date on the preparation of the CSO LTCP including engineering fees, attorneys' fees and all other costs associated with the development of this program and "to throw that out the window today is not being a responsible person."

Mr. O'Malley was confident that the District's administration "put together the best deal they possibly can." Furthermore, there has been only one other entity that has successfully negotiated a plan with the governments for over a 20-year period. Mr. O'Malley commended staff on their ability to negotiate a 25-year program.

Mr. O'Malley concluded by stating that that he cannot carry this on for no other reason than to make him "look better" or go against what he felt was the right thing to do. He thanked everyone for listening to him today and he stated that he felt this was the "best deal that we are going to get" and to delay this decision any further will only cost our ratepayers more money.

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Mayor DePiero thanked the public for their comments, e-mails, telephone calls and the many conversations he had with residents throughout the service area. Mayor DePiero advised that this has been one of the toughest votes he has had to make during his 15 years in public service as an elected official.

Mayor DePiero advised that he has been on this Board for three-and-a-half years and began serving shortly before Executive Director Ciaccia was selected to take over this agency. During said time, Mayor DePiero advocated for clean water and the District. One of the best decisions was to institute the SMP, which will be beneficial to this entire region.

Mayor DePiero stated that the operations of this organization vastly improved since Executive Director Ciaccia joined the District. Mayor DePiero strongly rejected the comment made alleging that Executive Director Ciaccia "had a Cleveland bias." Mayor DePiero commented that Executive Director Ciaccia has done a good job of reaching out to the suburban communities and his approach has been refreshing to this Board.

According to Mayor DePiero, Executive Director Ciaccia has hired very qualified people and has blended them with longstanding dedicated employees throughout the District. Under Executive Director Ciaccia's leadership and through the support of this Board, many good reforms taken place especially in the contracting and change order procedures. Many programs have been implemented that have improved this agency.

Mayor DePiero agreed with Mr. O'Malley's comment about the transparency and openness of the District administration, and he stated that this approach has been very refreshing. There is always the potential to do a better job, but we have done a good job of interacting with the public and keeping them abreast of District issues.

Mayor DePiero stated that since Executive Director Ciaccia joined the District, he discussed potential rate increases and the consent decree and much information was shared. Mayor DePiero stated that "things have been mischaracterized" by claiming that this administration has not been transparent and forthcoming on this issue.

However, Mayor DePiero informed that he will vote "no" on Resolution No. 353-10 in response to a "wrong-headed federal policy that continues to push expensive, unfunded mandates to local bodies without regard to the hardships that they may cause on the taxpayers."

Mayor DePiero wanted to send a message to the federal policymakers that we agree and support clean water, lakes and streams, but there needs to be a "carrot stick approach to clean water mandates." Mayor DePiero commented that "it has been all stick and no carrot."

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Mayor DePiero inquired if the federal government will finally make funding infrastructure for water, sewer, roads and bridges a top priority, or "are we going to continue to nibble around the edges that we have been doing for so many years?" Mayor DePiero stated that "both parties in the federal level have been guilty of this wrong-headed policy and federal funding of vital infrastructure must be our top priority."

Mayor DePiero referred to the large algae bloom problem in Lake Erie and many inland Ohio rivers and lakes, which is killing our water supply, fish and wildlife. He questioned, "Where is the outrage and enforcement action from the federal EPA?"

According to several reputable sources including the *Toledo Blade* and *Cairo Club*, the number one source of algae-growing phosphorus comes from farm runoff from agricultural operations. Mayor DePiero questioned, "Where are the lawsuits and enforcement actions against these entities by the federal EPA?"

Mayor DePiero indicated that he appreciated the work done by Executive Director Ciaccia and his competent staff regarding this settlement, but he believed that "a strong message needs to be sent to the federal government, that enough is enough." Until the proper funding is available and the government makes funding infrastructure a top priority, then ratepayers should not have to bear the brunt of this cost.

This District is making slow, successful progress in cleaning up our environment and our lake and therefore Mayor DePiero suggested that we be allowed to "continue that path under our own supervision."

Mr. Brown referred to Mr. O'Malley's comment regarding how much the District has spent preparing for the CSO program. In reference to the 12-month delay, Mr. Brown explained that each year we delay this program will cost the District an additional \$100 million.

In reference to alleging that this is a Cleveland/suburban issue, Mr. Brown stated that "we did not set the terms under which this gets paid for." The court order which created the District set forth that the cost for paying for the CSO strategy will be borne by all ratepayers. Mr. Brown was appalled that the longest-serving Board member did not know this.

Mr. Brown concluded by stating that "we all have to vote our conscience on what is in the best interest of the ratepayers" and he questioned if we are going to pay or pay a lot more? We can still have the opportunity to engage the federal government and "we need to do what is in the best interest of our ratepayers."

BOARD OF TRUSTEES

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Mr. Brown requested that the secretary please call the roll.

Mayor Starr indicated that he wanted to make another comment. On April 1, 2012, the bills will go out and he asked Mr. Brown to "tell us about what the water rate increase will be in that bill because the rates expire." According to Mayor Starr, "Cleveland Water Department, which you are in charge of rates will expire at the end of December, this month, and are going up 5% from 2009 to 2010." Therefore, if you add the District's proposed rate increase of 13% to the CWD's projected 5% rate increase, then we are looking at a potential 18% rate increase. Mayor Starr requested that Mr. Brown "tell us what Cleveland is planning for water rate increases in addition to sewer."

Mr. Brown questioned, "You are asking me?" Mayor Starr stated, "Yes. You are in charge; you work for the City of Cleveland."

Mr. Brown replied, "There is a study, just like there is a study going on for the Sewer District to examine rates, so there is not a proposal or a plan at this point."

Mr. Brown asked the secretary to proceed with the roll call for Resolution No. 353-10 and the motion carried with two "No" votes by Mayor DePiero and Mayor Starr.

VI. Information Item

No information items.

VII. Open Session

No items for discussion.

VIII. Public Session (any subject matter)

No members from the public registered to speak at Public Session.



IX. Adjournment

**MOTION** – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn Ms. Kelly moved and Mayor Bacci seconded the motion to adjourn at 2:18 p.m. Without objection, the motion carried unanimously.



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Dean R. DePiero, Secretary  
Board of Trustees  
Northeast Ohio Regional Sewer District



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Darnell Brown, President  
Board of Trustees  
Northeast Ohio Regional Sewer District